

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTHONY MICHAEL GARCIA,

Plaintiff,

v.

No. 1:23-cv-00375-LF

JOSEPH P. PETRELLI,
CURTIS R. GURLEY,
MEGA S. BOWEN,
LISA B. RILEY,
ROBERT RICK TEDROW,
SCOTT SANDEFER,
HAROLD POZAS,
S. SCHWIGER,
J. YOUNG,
FNU LOPEZ, and
ALL STATE OF NEW MEXICO PUBLIC OFFICIALS

Defendants.

MEMORANDUM OPINION AND ORDER FOR AMENDED COMPLAINT

Plaintiff, who is proceeding *pro se*, filed a document titled “Notice to Intervene with an Injunction, the King’s Bench.” See Doc. 1, filed May 2, 2023 (“Complaint”).¹ Plaintiff names ten State of New Mexico public officials, along with all State of New Mexico public officials, as “Wrongdoers.” Complaint at 1. The 21-page Complaint, with 18 pages of attachments, references cases in state court, makes vague allegations of constitutional violations related to double jeopardy,

¹ The Clerk's Office assigned the undersigned to this case for review pursuant to 28 U.S.C. § 1915 which allows the Court to authorize commencement of a case without prepayment of the filing fee. See Doc. 3, filed May 2, 2023. Plaintiff has paid the filing fee. See Doc. 4, filed May 2, 2023. The undersigned has reviewed the Complaint pursuant to the Court's inherent power to manage its docket. See *Securities and Exchange Comm'n v. Management Solutions, Inc.*, 824 Fed.Appx. 550, 553 (10th Cir. 2020) (“a district court has the inherent power 'to manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases'”) (quoting *Dietz v. Bouldin*, 136 S. Ct. 1885, 1891-92 (2016)).

excessive fines, cruel and unusual punishment, unlawful arrest, due process, denying Plaintiff medicine while he was in jail, and right to a fair trial. Much of the Complaint is legal argument. Plaintiff also alleges that four unidentified police officers assaulted Plaintiff and an unidentified police officer did not show up for court. *See* Complaint at 8-9, 11-13. The only relief Plaintiff seeks is: “Injunction ‘to stop’ STATE OF NEW MEXICO Public Official(s) in their individual capacity and private and public venders And, continue to investigate for RICO and other probable cause violations.” Complaint at 16 (stating “I move the court for injunction and continuance of this case(s) for probable cause committed”).

The Complaint fails to state a claim upon which relief can be granted as to the named Defendants. “[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.” *Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center*, 492 F.3d 1158, 1163 (10th Cir. 2007). A complaint must “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The only factual allegations regarding Defendant Petrelli state he is an assistant district attorney, he disobeyed a judge’s order, and he violated his Attorney’s Oath. Complaint at 8, 15. There are no factual allegations that mention the other nine named Defendants. Furthermore, the Complaint does not describe the acts Plaintiff seeks to have restrained or required. *See* Fed. R. Civ. P. 65(d)(1) (“Every order granting an injunction and every restraining order must ... describe in reasonable detail ... the act or acts restrained or required”).

The Complaint should be dismissed for failure to state a claim. The Court grants Plaintiff an opportunity to file an amended complaint.

Case Management

Generally, *pro se* litigants are held to the same standards of professional responsibility as trained attorneys. It is a *pro se* litigant's responsibility to become familiar with and to comply with the *Federal Rules of Civil Procedure* and the *Local Rules of the United States District Court for the District of New Mexico* (the "Local Rules").

Guide for Pro Se Litigants at 4, United States District Court, District of New Mexico (October 2022). The Local Rules, the Guide for Pro Se Litigants and a link to the Federal Rules of Civil Procedure are available on the Court's website: <http://www.nmd.uscourts.gov>.

Compliance with Rule 11

The Court reminds Plaintiff of his obligations pursuant to Rule 11 of the Federal Rules of Civil Procedure. *See Yang v. Archuleta*, 525 F.3d 925, 927 n. 1 (10th Cir. 2008) ("*Pro se* status does not excuse the obligation of any litigant to comply with the fundamental requirements of the Federal Rules of Civil and Appellate Procedure."). Rule 11(b) provides:

Representations to the Court. By presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

Fed. R. Civ. P. 11(b). Failure to comply with the requirements of Rule 11 may subject Plaintiff to sanctions, including monetary penalties and nonmonetary directives. *See* Fed. R. Civ. P. 11(c).

IT IS ORDERED that Plaintiff shall, within 21 days of entry of this Order, file an amended complaint. Failure to timely file an amended complaint may result in dismissal of this case.


UNITED STATES MAGISTRATE JUDGE